

1 HONORABLE THOMAS S. ZILLY  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

8 )  
9 HARMONY GOLD U.S.A., INC., ) CASE NO. 2:17-CV-00327-TSZ  
10 )  
11 Plaintiff, ) **DECLARATION OF TODD S.**  
12 v. ) **FAIRCHILD IN SUPPORT OF**  
13 HAREBRAINED SCHEMES LLC, ) **PIRANHA'S REPLY IN SUPPORT OF**  
14 HAREBRAINED HOLDINGS, INC., JORDAN ) **PIRANHA'S MOTION FOR**  
15 WEISMAN, PIRANHA GAMES INC. and DOES ) **SUMMARY JUDGMENT AS TO**  
16 1-10, ) **PLAINTIFF'S LACK OF STANDING**  
17 ) **TO ASSERT COPYRIGHT**  
18 ) **INFRINGEMENT CLAIM (Dkt. 47)**  
19 ) **REDACTED**  
20 )  
21 Defendants. ) **NOTE ON MOTION CALENDAR:**  
22 ) **DECEMBER 22, 2017**  
23 )  
24 )  
25 )  
26 )

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I, Todd S. Fairchild, hereby declare as follows:

1. I am an attorney practicing with the law firm of Dorsey & Whitney LLP, which  
2 represents defendant Piranha Games Inc. ("Piranha") in this matter. The statements made below  
3 are based on my personal knowledge, unless the context indicates otherwise.

2. In the months before Piranha filed its pending motion for summary judgment  
3 (Dkt. 47), I participated in several telephone conference calls with current and former counsel for  
4 plaintiff Harmony Gold U.S.A., Inc. ("Harmony Gold"). During at least one of those calls,  
5 Harmony Gold's current counsel (Ms. Stebbins Bina) stated her belief that [REDACTED]

DECLARATION OF TODD S. FAIRCHILD IN SUPPORT OF PIRANHA'S REPLY  
IN SUPPORT OF PIRANHA'S MOTION FOR SUMMARY JUDGMENT AS TO  
PLAINTIFF'S LACK OF STANDING TO ASSERT COPYRIGHT INFRINGEMENT  
CLAIM

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1 [REDACTED] that would support Harmony Gold's  
 2 claim that it had received a valid assignment of copyrights in the Big West Characters identified  
 3 in Piranha's pending motion for summary judgment. Ms. Stebbins Bina stated that Harmony  
 4 Gold would not spend the time or resources necessary to obtain those documents unless  
 5 defendants were to file a dispositive motion.

6 3. In her declaration (Dkt. 67 at ¶ 9), Ms. Stebbins Bina states her understanding that  
 7 the parties agreed to an informal stay of discovery in this case. The parties never agreed to stay  
 8 any discovery. Counsel for Piranha served interrogatories and document requests on Harmony  
 9 Gold many months ago. During the months leading up to Piranha filing its motion for summary  
 10 judgment, counsel for Piranha requested and received from counsel for Harmony Gold various  
 11 documents relating to Harmony Gold's alleged standing to assert its copyright infringement  
 12 claims. There is no stipulation or agreement between the parties that prevented or relieved  
 13 Harmony Gold from seeking any documents or information it allegedly needs to prove that it  
 14 received a valid assignment of copyrights in the Big West Characters.  
 15

16 I declare under penalty of perjury pursuant to the laws of the United States of America  
 17 that the foregoing is true and correct to the best of my information, knowledge and belief.  
 18

Signed this 22<sup>nd</sup> day of December, 2017 at Seattle, Washington.

19 */s/ Todd S. Fairchild* \_\_\_\_\_  
 20 Todd S. Fairchild  
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26 DECLARATION OF TODD S. FAIRCHILD IN SUPPORT OF PIRANHA'S REPLY  
 IN SUPPORT OF PIRANHA'S MOTION FOR SUMMARY JUDGMENT AS TO  
 PLAINTIFF'S LACK OF STANDING TO ASSERT COPYRIGHT INFRINGEMENT  
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